

Children, Young People, Education and Skills (CYPES)

Title: Young Offenders in Schools, Colleges and Youth Projects

Date: August 2021

1. Overview

In the last few years, there has been growing concern among educators, parents/carers and community members about young offenders in schools, colleges and youth projects. This document will provide Education Department staff and staff in Education Department settings with direction and guidelines to develop effective processes for their schools and communities.

2. United Nations Conventions on the Rights of the Child (UNCRC)

This policy is written in line with the UNCRC particularly supporting the underlying principles of articles 2, 3, 6 and 12. In addition to this, articles 28 and 29 are prevalent in supporting all children in their education in respect to their talents and abilities. Meeting the rights of the child in Article 40 will be of importance.

CYPES is committed to supporting children's rights in all schools across Jersey.

3. Background

The vast majority of children and young people in Jersey are well-behaved, take positive advantage of the learning opportunities provided to them, and develop into caring and contributing adults.

The Education Department has normally retained or inducted pupils who have committed criminal offences. Following recent legislation, students who have specifically committed sex offences are now placed on the Sex Offenders Register with headteachers/principal youth officer being notified of this fact.

In cases of any offence, it can be an establishment's duty to accommodate the perpetrator as well as protect the victim. Headteachers and other leaders, therefore, must create a safe environment when they have children/young people who are offenders in their community.

The challenge for our schools/colleges/youth projects is to provide the least restrictive environment possible for the growth and healing of offenders, while protecting other individuals from violence and

abuse. This being the case it makes sense for there to be a set of guidelines from the Education Department. When a senior leader has an offending student or victim in their school/college/youth project they should take into consideration the following:

- information relating to the victim's and offender's needs
- policy and guidelines
- legal information
- training and resources
- potential opportunities
- contributing adults

The problem is particularly acute where the offender and victim are present in the same setting. All Education Department establishments have a duty to safeguard and promote the welfare of children/young people. This duty extends to the victims of offences to ensure that they do not come in to contact with their abuser. Where necessary the Department would support any school/college/youth project in finding a new placement if it is deemed in the best interests of the child in line with Article 3 of the UNCRC.

4. Offenders are Young People in Need

Those who work with children/young people who abuse others (including those who sexually abuse) must recognise that they are likely to have considerable unmet needs themselves and that they may pose a risk of harm to other children/young people.

Evidence suggests that children/young people who abuse others may have suffered considerable disruption in their own lives, been exposed to violence within their family, witnessed or been subject to physical or sexual abuse, had problems in their educational development or committed other offences.

Even so, children/young people who abuse others should be held responsible for their behaviour, whilst being identified and responded to in a way that meets their needs, as well as protecting others

5. Key Principles

These key principles will be followed by schools/colleges/youth projects when they are planning to introduce a young offender into an Education Department environment.

- There should be a coordinated multi agency approach on the part of youth justice, children and social care, education (including educational psychology and education welfare) and health agencies (including child and adolescent mental health)
- The needs of children/young people who abuse others should be considered separately from the needs of their victims
- A risk assessment should be carried out in each case, appreciating that these children/young people may have considerable unmet developmental needs, as well as specific needs arising from their behaviour

6. Safe and Secure Learning Environment

There are provisions within The Education (Jersey) Law 1999 which make students accountable for their behaviour at school and responsive to the discipline of school/college staff.

Responsibilities of Teachers and Headteachers

The duties and responsibilities of Education Department staff are to maintain order, discipline and harmony within the school/college/youth project.

The ultimate enforcement tools which a school/college may use are the suspension and/or expulsion of a student who has misbehaved. The Department's Guidance on Improving Behaviour and Reducing Exclusion document sets out the procedures which must be followed by the school/college before a decision is made to suspend or to expel a student.

It is noted that for those schools/colleges with students who are past the age of compulsory education (16+), it is the decision of the Governing Body (and not the Chief Education Officer) to decide on the appropriate sanctions.

In situations involving young offenders the criminal justice system is involved as well. It is important to note that where a student is under certain orders or restrictions pursuant to a court order, it is the student who is responsible for fulfilling those requirements. Such orders do not stand in the way of the legitimate use of the powers and duties school/college have (e.g. suspension or expulsion); however any decision making or planning by the senior leader will be informed by any legal constraints placed upon the child/young person by the court and supervised by the relevant agency.

Within the Youth Service, should a child/young person aged nine to 18 years, or young adult aged 19 to 25 years, be excluded from a youth project, then this is the decision of the senior youth worker who will have met with their line manager to discuss the individual/situation.

Removing barriers to cooperation among institutions and systems involved with offending students and victims is a priority. The overriding principle must be to provide safe and supportive schools for everyone.

Access to Information under the Sex Offenders (Jersey) Law 2010

The Sex Offenders (Jersey) Law 2010 provides that information about a young offender cannot be published or released, except in certain limited circumstances. These circumstances have been broadened to permit professionals to:

- release information for the preparation of reports
- release information to the police and others who provide services to an offender
- release information to any professional or other person engaged in the supervision or care of the offender, including the representative of any school/youth project, educational or training institution where it is necessary to ensure compliance with the terms of a temporary absence or day release or conditional supervision order, bail order or conditional supervision order, or to ensure the safety of staff, students or others

The recipient of the information can only disclose it for the same purpose, must keep it separate from other records, control access to it, and destroy it when it is no longer required for that purpose. 4

These provisions go a long way towards addressing the need to share information with schools/colleges/youth project and other involved professionals.

7. Developing Practical Responses

This section contains principles and considerations to guide the development of policies, protocols and action plans which assist schools/colleges/youth projects and staff in developing effective processes for dealing with offending students and victims. These must include:

- involving all relevant parties in the discussion and developing some overarching principles
- treating each situation individually
- using a joint planning, case management approach
- balancing the input and work of all involved between reactive and preventative strategies and full consideration for victims

8. Principles to Guide Policy and Action

The risk analysis conducted by JMAPP (Jersey Multi-Agency Public Protection Arrangements) will inform the school/college/youth project regarding safeguarding of identified others. This will guide them in their decision making and lead them into their own risk assessment. (See JMAPP guidance document).

The following principles provide guidance when formulating policy and action plans:

• Safety and Security

The maintenance of a safe and secure teaching and learning environment for everyone in the school/college/youth project is the objective. This includes the responsibility for students when they are on Education Department property, visits away from school/college/youth projects sites, other than the bus service.

• Collaboration and Joint Planning

Schools/colleges/youth projects, in partnership with other agencies, use a joint planning, collaborative approach to develop action plans. The Education Department is not primarily responsible for the care of the offender. However, because all children/young people under the age of 16 must attend school, the contribution of the school/college is vital. Subsequent to any JMAPP process, school/college will lead any partnership meeting relating to the young offender's attendance at their setting.

• Information Sharing

Relevant information only is shared. This is done in confidence on a need-to-know basis and in accordance with the Criminal Justice (Young Offenders) (Jersey) Law 2014. Information sharing supports the comprehensive joint planning activities undertaken for the well-being of the victim, the offender and everyone in the school/college/youth project.

9. Developing Guidelines and Protocols

Department Guidelines

A key step for the Education Department in seeking to address the issues of an offending student in schools/colleges/youth projects is to develop Guidelines. This document serves as a starting point to develop their own policies and practice.

Multi-Agency Protocols

Responding effectively to the issues of an offending student and/or victim in school/college/youth projects requires the involvement and support of a number of different agencies. This discussion is generally developed at JMAPP level and will include social services, police, justice, health (including mental health), schools/colleges/youth project and other community agencies.

Professional Support

Headteachers, Education Department managers, youth workers and teachers may require support and training in managing these situations. Guidance on the Law and relevant policies can be provided for them by the Department; in particular the Educational Psychology Service

10. Supporting Pupils

Protecting children and young people from physical, emotional and sexual abuse is a responsibility which must be shared by everyone. Maintaining confidentiality is often an important concern for the victim and respecting this request should be considered to the extent allowed by Law. (This is determined through JMAPP process).

11. Risk Assessments

It is clear from all the statutory guidance that an offender of compulsory school age has the same right to receive full-time education as any other group. The risk assessment plan should include:

- consideration of how the victim, if also a pupil at the school/college/youth project, should be protected
- a shared assessment of the possible threat that the child/young person presents to other children/young people, including information from social services and the police
- regular multi-agency meetings to review the child's/young person's progress and management and, when appropriate, should include family members
- regular meetings with the child/young person to ensure s/he is coping with the conditions attached to any placement in the school/college/youth project
- an assessment of any danger areas within the school/college/youth project and its grounds
- an assessment of whether staff understand and implement child protection policies
- an assessment of aspects of the school/college/youth project curriculum that may affect these plans
- establishing who needs to know about the child/young person, bearing in mind confidentiality and protection. Child protection information must only be given on a

need-to-know basis • the establishment of clear reporting procedures and what to do should the pupil become a cause for concern

12. Action Plan Elements

The elements of a coordinated action plan for joint case management include:

- identifying and including appropriate and necessary participants, ie staff, governors and other relevant parties (eg staff union representatives)
- obtaining consent to share confidential information and to maintain confidentiality
- reviewing policies and protocols for offending students
- reviewing the issue(s), needs, objectives and specific measurable desired outcomes • developing a joint case management plan
- implementing the plan
- monitoring the implementation and evaluating the effectiveness of the plan
- facilitating contacts with parents/carers, governing bodies and multi-agencies as required

Topics to consider in developing the action plan include:

- safety of victim, offender, parents/carers, siblings, students, staff and community
- selection of an appropriate educational setting with supported transition
- appropriate programming, supervision, counselling support to also include the family
- plan for shared resources
- the victim's comfort level with arrangements
- professional development needs of school/college/youth project staff
- communication (internal and external)

13. Suggested Roles and Responsibilities

The Sex Offenders (Jersey) Law 2010 takes into account the developmental needs of the young offenders and their varying levels of maturity and seeks ways to reduce the probability of re-offending.

The roles and responsibilities outlined below are intended to provide guidelines to ensure that the Department is prepared and that coordinated action planning and the joint case plan are developed and implemented successfully. These are provided with the understanding that each situation is unique and that these roles and responsibilities may require adaptation.

Education Department

The roles and responsibilities of the Education Department:

- developing guidelines related to addressing the issue of offending students in schools/colleges/youth projects in consultation with headteachers and teachers' unions and youth service
- providing in-service training opportunities for headteachers, senior youth workers and teachers to familiarise them with Department guidelines and multi-agency protocols and issues surrounding victims and offending students
- monitoring the process and assisting the headteacher/youth work manager when an offending student or victim is on roll/involved in their setting

Headteacher/Principal Youth Officer and Governing Bodies

The roles and responsibilities of the headteacher include:

1. Contacting the Chief Education Officer or designate immediately upon learning that a child/young person registered or attending their school/college/youth project is alleged, charged, or convicted of a serious offence.
2. Seeking informed consent to share confidential information. Students, staff and parents/carers need to know the full extent to which confidential information is to be shared, what information will be shared with whom and for what purpose and benefit. When the offender is charged or convicted, the head teacher/case manager/principal youth officer has the responsibility for obtaining consent and this will be subject to the provisions in the Law. A point of special consideration will be when an offending student is due to participate in any activity away from the direct supervision of the school/college/youth project e.g. work experience. A separate risk assessment would need to be undertaken with the sharing of information taken into consideration.
3. Participating in/leading a meeting to develop an action plan. This meeting should occur without delay. At a practical level, having an abuser and victim present within the same setting will mean that timetabling and planning should aim, wherever possible, to ensure that they are not in the same school areas. If they are, the school must give proper support to the victim. The purpose of the meeting is to periodically review and develop a plan for the success and safety of the student in the school/college and community and for the well-being of the victim. In the case of a victim and offender in the same school/college, two separate meetings and a third meeting to amalgamate the plans may be necessary to ensure the comfort of the victim.
4. If the student is registering at the school/college for the first time, the placement decision is made after the case plan has been developed. This placement decision is based on several factors including the assessment of risk for the victim, the offender and others in the school/college. Provisions for placement must be made expediently; any delay could be perceived as a denial of access to education. In the case of a student already in school/college, s/he could be asked to remain out of school/college until a case plan has been developed.
5. The headteacher must ensure that the case plan is recorded and monitored. Any member of the joint case management planning team may request a meeting to discuss the progress of the plan. The headteacher will also initiate the steps to review and revise or develop another plan as required. All information must be kept in a secure place, separate from other student records.

14. Final Considerations

In responding to the safety of offending students, the challenge for the school/college/youth project is to be fair to the victim, offender, other students and staff. Fairness requires balancing the perceived threat with the actual threat of having an offender in the school. This includes providing assurance to parents/carers regarding the safety and support of the victim and offender. To do this successfully, schools/colleges/youth projects require the support of the Education Department, the parents/carers, the police, health and justice systems, social services and other agencies. Any planning should include these partners

Related Documents

1. Child Protection Policy
2. The Education (Jersey) Law 1999
3. Sex Offenders (Jersey) Law 2010
4. The Guidance on Improving Behaviour and Reducing Exclusion (Jersey)
5. Safeguarding Policy Overview
6. Data Protection (Jersey) Law 2005
7. Risk Assessments:
 - Risk Assessment – NAHT
 - Risk Assessment – DfES
 - Risk Assessment – NUT
 - Education Department – Risk Assessment template for school/college use
8. JMAPP – Information Booklet 9. Criminal Justice (Young Offenders) (Jersey) Law 2014

Change History

Version	Date Issued	Issued by	Reason for change
1.6	03.08.2021	Service Manager for Vulnerable Children	Updated to reflect current practice

Approval

Presented to	Approved by	Date
SMT		09.2021